

12 MAY 1988

ADD/EB5

FEDERAL PERSONNEL GUIDE

WEEKLY NEWS DATETM

VOLUME VI, Number 17

Washington, D.C.

May 3, 1988

2ND FERS CHANCE AFTER ALL

It was there all the time in the original 1986 law Congress passed to establish the Federal Employees Retirement System. But nobody noticed it until recently, when the possibility of a second FERS Open Season became an issue on the civil service front.

It is a clause in the FERS law that allows employees to file requests that they be transferred from the Civil Service Retirement System to FERS after the official close of the Open Season — which ran from July 1 to Dec. 31 last year.

The clause also allows the Office of Personnel Management (OPM) discretion in deciding whether to accept such late transfer requests if that agency can be persuaded that the filing employee did not learn until too late of changes Congress made in the FERS law late last year.

The problem was caused when Congress failed to pass legislation regarding the amount of salary contributions higher-paid employees would be allowed to make to FERS' Thrift Saving Fund, and on how federal employees would be subjected to the Social Security pension offset provision for spousal annuities.

Only about 2% of the nearly 2 million employees eligible to transfer to FERS from CSRS actually made the decision to do so last year during the Open Season. Most observers agree that the fact Congress did not act on the legislation until Dec. 22 had a major impact on the low transfer rate.

Personnel officials had projected that as many as 40% of the eligible employees would transfer to FERS during the Open Season, so the extraordinarily low rate came as a shock.

Legislation has been introduced in the House by Virginia Republican Rep. Stan Parris, with the support of most civil service employee organizations, to authorize a second FERS Open Season.

Parris said in March when he introduced the bill that he was doing so "in an effort to restore some sense of equity and fair dealing to federal government retirement benefits." But little progress has been made in advancing the bill in the months since.

LIBERAL FERS POLICY SEEN

At deadline, OPM officials said they are likely to take a liberal attitude towards late transfer filings.

Guidance for agencies on how to process the requests was being prepared for distribution this week.

Most agencies are expected to require a written statement from the employee seeking the transfer, explaining why the request is being filed late.

There was no definitive word on how long such transfers will be accepted. However, June 30 is likely to become the final deadline because that is the effective date of the pension offset exemption.

The pension offset development is good news for thousands of employees.

Officials at OPM told UP•DATE last week that they were waiting for a letter from Social Security Administration explaining that late FERS transfers would be considered effective prior to the Dec. 31 Open Season deadline for purposes of computing spousal benefits.

Congress did exempt from the provision employees making the transfer prior to the deadline. But the question of whether late transfers would qualify for the exemption is crucial.

The offset cuts a Social Security spousal annuity by an amount equal to two-thirds of the civil service employee's federal pension amount. In most cases, that means the spousal annuity from Social Security would be wiped out.

A federal retiree with a \$1,200 monthly federal FERS benefit — who otherwise qualified for, say, a \$500 spousal benefit from Social Security — would receive nothing, because two-thirds of the FERS check equals \$800.

The original FERS law contained a permanent exemption from the offset. But the House Ways and Means Committee became concerned that some employees might take advantage of the exemption. The issue was not resolved until Dec. 22 last year.

Parris was praising OPM for working on the unusual second chance to transfer to FERS as this issue of UP•DATE went to press. The agency's action accomplishes the goal of his bill, Parris said.

"Increasingly, our nation's federal employees are expressing their frustration and disappointment with their employer, the federal government. Congress is creating a nightmarish system of benefits management for federal workers — denying them certainty and a real opportunity to plan their retirement," he said.

"Federal employees simply are losing trust in their

(Please Turn To Page 2)

FERS POLICY (Con't. from page 1)

employer and fear that a benefit made available today will be eliminated, taxed or reduced to the point that it is no longer a benefit at some future date," he added.

"I urge the Social Security Administration to respond affirmatively to OPM quickly, so that all federal agencies can be informed of the belated filing provision procedure as soon as possible, and I urge federal agencies to inform their employees of the late election opportunity immediately thereafter," he said.

ROTH HEARING PRODUCES LITTLE ACTION

The Senate Governmental Affairs Committee held that hearing on a liberalized early-out retirement proposal by Delaware Republican Sen. William Roth as promised, but produced little forward progress on the issue.

Ohio Democratic Sen. John Glenn — who succeeded Roth as chairman of the committee when the Democrats regained a Senate majority in the 1986 elections — remains opposed to the Roth proposal. So do other Democratic members of the committee, most agency heads and all of the major civil service employee union leaders.

Said Glenn of the Roth proposal: "[It] proposes to go considerably beyond current law by authorizing a one-time, 90-day early-out opportunity government-wide, regardless of individual agency concerns. If we were to simply take the bill and enact it into law, almost 20% of the federal government's employees would be eligible for retirement this year."

Glenn also noted that "although these early retirement benefits would immediately cost the government money, [Roth] proposes to save money at the same time by imposing a three-year hiring freeze on displaced employees who retire during the 90-day retirement window.

"The federal agencies that have reviewed this legislation have indicated to me that it could seriously disrupt their operations. Many concerns have been raised that enactment could result in the loss of some of the best and most experienced federal employees."

Glenn then cited letters from the Central Intelligence Agency, the National Security Agency and NASA, criticizing the Roth proposal's impact upon their ability to perform their missions.

In NASA's evaluation, for example, Jon McBride, the space agency's assistant administrator for congressional relations, said his agency "is very concerned about this legislation because of the effect it would have on our workforce and the accomplishment of our mission."

Citing figures from an agency study, McBride said that "over three-quarters [of NASA employees who would be eligible to retire under the Roth bill] are GS-12 and above, our most seasoned and experienced people, more than half are scientists and engineers. Of even more concern is the possibility that about 80% of our key senior line managers (or 60%, with maximum exemptions) could leave the agency under the provisions of the bill."

McBride also said that "a survey undertaken last year indicates that, conservatively, 1,700 employees, 20% of

those eligible would probably elect to retire."

Glenn said he supports a reasonable early-out program, but the fact that the Roth bill has generated such widespread support raises "fundamental questions" about the government's compensation system.

"If there are large numbers of senior federal employees who wish to leave the system, doesn't that say something about the quality of working life for federal employees?" Glenn asked.

"Shouldn't we be addressing the real concerns of federal workers about pay and working conditions, rather than focusing on ways of allowing needed workers to abandon the federal service?" he added.

Roth showed up at the hearing armed with letters from more than 8,000 civil servants, who responded to an unusual appeal the Delaware Republican issued last year seeking expressions of support for his proposal.

The provisions of the Roth bill are indeed rather liberal compared to the existing early-out law administered by OPM. During the 90-day early-out window provided by Roth, employees could retire at any age with 25 years of service, at age 50 with 15 years of service or at age 57 with five years of service.

Annuities in each case would be reduced under Roth by 2% per year for each year the employee retires prior to the government's normal retirement age of 55.

The General Accounting Office (GAO) has estimated that as many as 420,000 of the government's current employees would be eligible to retire under the provisions in the Roth proposal.

Agencies would be able to exempt up to 25% of their employees from eligibility if those employees were deemed essential to fulfilling the agency's mission. Also, the provision would not be made available to nonsupervisory employees in law enforcement, firefighting and air traffic control jobs.

ANALYSIS: WHO OPPOSES ROTH AND WHY

The opposition to the Roth early-out proposal provides a fascinating study of current political dynamics on the civil service front.

It is one of very few issues that has united employee unions, employee professional groups, Capitol Hill Democrats and the Reagan administration.

Speaking for the White House, Office of Management & Budget (OMB) Director James Miller said, "The administration cannot support [the Roth proposal] because it represents an undesirable and costly approach to reducing the federal workforce."

Constance Horner, director of OPM, told the Glenn committee that "there is no need for this legislation, especially since we anticipate no widespread reduction in federal civilian employment.

"Should individual agencies find it necessary to implement a reorganization, reduction-in-force or transfer of function which will cause a significant number of employees to suffer any reduction or separation from federal service, agencies may obtain OPM approval to